

REMARKS

Claims 15, 16, 18-23, 25-28 and 30-38 are pending in the application that this time. Claims 15, 16, 18, 20-23, 25, 26 and 30-38 were rejected under 35 U.S.C. §102(e) as being anticipated by U.S. patent publication No. US 2003/0093203 A1 of Adachi *et al.* (Adachi). Claims 19, 27 and 28 were rejected under 35 U.S.C. §102(e) as being anticipated by U.S. patent publication No. US 2002/0038172 A1 of Kinugawa *et al.* (Kinugawa). These rejections span pages 2-15 of the Official action.

Applicant respectfully submits that Adachi and Kinugawa are not proper references against applicant's claims under any provision of 35 U.S.C. §102. Therefore, applicant respectfully requests that the examiner reconsider and withdrawal these rejections.

The filing date of the present application is the filing date of PCT international application PCT/JP00/01657, which is March 17, 2000. This filing date is prior to the filing date of Kinugawa, which is September 24, 2001. Therefore, Kinugawa is not available as a reference under 35 U.S.C. §102(e). Kinugawa was published on March 28, 2002, which is after the filing date of the present application of March 17, 2000. Therefore, Kinugawa is not available as a reference under 35 U.S.C. §102(a) against the claims in this application.

Adachi corresponds to a PCT application filed March 30, 2001, which was published as WO 01/73220 apparently on October 4, 2001 in Japanese. Under the provisions of the American Inventors Protection Act (AIPA), Adachi does not have a 102(e) date, because it was not published in English. Therefore, Adachi cannot be used to reject applicant's claims under 35 U.S.C. §102(e). Since Adachi was published after the filing date of the present application, it also cannot be used as a reference against applicant's claims under 35 U.S.C. §102(a).

The filing date of the present application is the same as the international filing date of March 17, 2000. An international application designating the United States shall have the effect, from its international filing date under Article 11 of the treaty, of a national application for patent regularly filed in the Patent and Trademark Office except as otherwise provided in section 102(e) of title 35. Similarly, PCT Article 11(3) provides that

...an international filing date shall have the effect of a regular national application in each designated State as of the international filing date, which date shall be considered to be the actual filing date in each designated State.

While the American Inventors Protection Act (AIPA) provided exceptions for the 35 U.S.C. §102(e) date of PCT international applications, which was further amended by the Intellectual Property and High Technology Technical

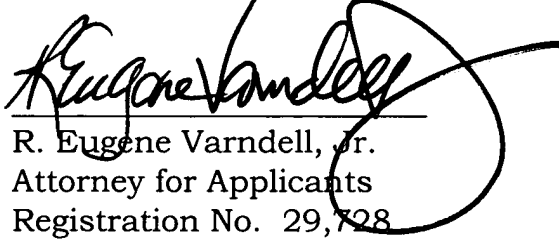
Amendments Act of 2002 (Pub. L. 107-273, 116 Stat. 1758 (2002)), these exceptions have to do with the use of the international application *as prior art*, along the lines discussed above with respect to Adachi. The AIPA did not change the fact that the U.S. filing date of a national phase PCT international application is the same as the PCT international application filing date. Thus, the filing date of the present application is the filing date of PCT international application PCT/JP00/01657, which is March 17, 2000.

The filing date of the present application is prior to the publication dates of Adachi and Kinugawa and prior to the filing date of Kinugawa. Therefore, Adachi and Kinugawa are not references against the claims of the present application under 35 U.S.C. §102. Accordingly, applicant respectfully requests that the examiner reconsider and withdrawal these rejections.

The foregoing is believed to be a complete and proper response to the Official action mailed November 29, 2005. While it is believed that all the claims in this application are in condition for allowance, should the examiner have any comments or questions, it is respectfully requested that the undersigned be telephoned at the below listed number to resolve any outstanding issues.

In the event that this paper is not timely filed, applicant hereby petitions for an appropriate extension of time. The Commissioner is hereby authorized to charge the fee therefor, as well as any deficiency in the payment of the required fee(s) or credit any overpayment, to our deposit account No. 50-1147.

Respectfully submitted,
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